

Message Text

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PAGE 01 BONN 03031 01 OF 02 171252Z
ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-05 H-01 INR-10
L-03 NSAE-00 PA-01 SP-02 SS-15 NSCE-00 SSO-00
USIE-00 INRE-00 MCT-01 ACDA-12 COME-00 HA-05
DOE-11 SOE-02 DOEE-00 TRSE-00 /081 W
-----067296 171317Z /45

O R 171232Z FEB 78
FM AMEMBASSY BONN
TO SECSTATE WASHDC IMMEDIATE 5950
INFO AMEMBASSY BERLIN
AMEMBASSY LONDON
AMEMBASSY MOSCOW
AMEMBASSY PARIS
AMCONSUL BREMEN
AMCONSUL DUSSELDORF
AMCONSUL FRANKFURT
AMCONSUL HAMBURG
AMCONSUL MUNICH
AMCONSUL STUTTGART
USMISSION USBERLIN
USMISSION USNATO

C O N F I D E N T I A L SECTION 01 OF 02 BONN 03031

E.O. 11652: GDS
TAGS: PINT, GW
SUBJECT: SCHMIDT COALITION JUST SQUEAKS THROUGH ON KEY
LEGISLATIVE TEST

REFERENCE: BONN 2732

BEGIN SUMMARY: THE GOVERNMENT COALITION PASSED BY ONE
VOTE (245-244) AN ANTI-TERRORISM BILL WHICH HAD IN-
CREASINGLY BEEN BUILT UP AS A TEST OF COALITION UNITY
AND OF THE ABILITY OF THE SCHMIDT GOVERNMENT TO MUSTER
A PARLIAMENTARYITMAJORITY. WHILE TECHNICALLY A VICTORY,
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PAGE 02 BONN 03031 01 OF 02 171252Z

THE VOTE IS IN MANY WAYS A SETBACK FOR THE COALITION.
END SUMMARY.

1. LATE FEBRUARY 16, FOUR SOCIAL DEMOCRATIC PARTY (SPD)
DEPUTIES VOTED AGAINST THE GOVERNMENT-SPONSORED ANTI-
TERRORISM BILL ON THE GROUNDS THAT IT WENT TOO FAR IN
CONSTRAINING BASIC CIVIL LIBERTIES. AN ADDITIONAL SPD

DEPUTY MEANT TO VOTE "YES", BUT TOOK THE WRONG CARD AND THUSSDIS VOTE DID NOT COUNT. TWO OTHER SPD DEPUTIES WHO VOTED FOR THE BILL MADE A POINT OF SAYING THAT THEY OPPOSED IT BUT WOULD VOTE FOR IT ONLY TO "SAVE" THE GOVERNMENT. EITHER OF THEIR VOTES COULD HAVE SERVED TO DEFEAT THE BILL. AT LEAST 10 OTHER SPD DEPUTIES HAD SIMILAR RESERVATIONS BUT MADE NO STATEMENT TO JUSTIFY THEIR SUPPORT OF THE BILL. ALL MEMBERS OF THE OTHER COALITION PARTY, THE FREE DEMOCRATS (FDP), VOTED IN FAVOR. IN A DELIBERATE EFFORT TO TEST THE COALITION'S PARLIAMENTARY STRENGTH, THE OPPOSITION VOTED UNANIMOUSLY AGAINST THE BILL, SAYING IT DID NOT GO FAR ENOUGH TO COMBAT TERRORISM.

2. THE SIGNIFICANCE OF THIS PIECE OF LEGISLATION HAS BEEN BUILT UP OVER RECENT WEEKS AS A TEST OF THE GOVERNMENT'S ABILITY TO TAKE ACTION ON A KEY ISSUE IN THE FACE OF DISSENT FROM THE SPD LEFT. THE OPPOSITION HAD CHARGED THAT THE SCHMIDT COALITION WAS INCAPABLE OF GOVERNING, AND THAT THE "TAIL"--THE LEFT--WAGGED THE DOG OF THE COALITION AS A WHOLE. THE COALITION ITSELF, PARTLY TO STIFLE DISSENT IN ITS OWN RANKS AND PARTY BECAUSE OF GENUINE CONCERN OVER NOT PRODUCING A MAJORITY ON A TEST ISSUE, ALSO BUILT UP THE SIGNIFICANCE OF THIS VOTE. THE SPD LEADERSHIP SPENT MOST OF THE LAST WEEK ARGUING TO DISCOURAGE POTENTIAL DISSIDENTS FROM VOTING

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PAGE 03 BONN 03031 01 OF 02 171252Z

AGAINST THE BILL, FORECASTING DIRE CONSEQUENCES FOR THE GOVERNMENT SHOULD THE BILL FAIL TO PASS. FDP LEADER GENSCHER WENT SO FAR AS TO FORECAST A BREAKDOWN IN THE COALITION SHOULD THE BILL BE DEFEATED. IN SHORT, WHILE OFFICIALLY SAYING THAT IT WAS NOT A VOTE OF CONFIDENCE, THE COALITION BUILT THIS VOTE INTO SOMETHING CLOSELY RESEMBLING ONE.

3. ON BALANCE, THIS VOTE IS A DOMESTIC SETBACK FOR THE COALITION. TERRORISM IS AN EMOTIONAL ISSUE, AND THIS EMOTIONALISM WILL INCREASE SHARPLY IF AND WHEN THE NEXT TERRORIST ACT TAKES PLACE IN THE FRG. IT IS A POOR ISSUE ON WHICH TO "SQUEAK THROUGH." THE OPPOSITION CAN AND WILL CLAIM WITH SOME PLAUSIBILITY THAT THE COALITION HAS SERIOUS INTERNAL PROBLEMS IN COPING WITH TERRORISM, AND THAT IT CAN BARELY COUNT ON SURVIVING A PARLIAMENTARY VOTE ON SUCH A KEY ISSUE.

4. FOR THE SCHMIDT GOVERNMENT, THE CONSEQUENCES ARE SERIOUS:

-- THE ATTENTION OF THE TOP LEADERSHIP HAS BEEN FOCUSED

FOR DAYS ON SHAPING THE VOTES OF A HANDFUL OF POTENTIAL
PARTY DISSIDENTS.

-- THIS CORE OF DISSIDENTS - INCLUDING SEVERAL WHO DID
NOT VOTE AGAINST THIS BILL BUT WANTED TO - HAS TAKEN ON

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PAGE 01 BONN 03031 02 OF 02 171256Z
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O R 171232Z FEB 78
FM AMEMBASSY BONN
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C O N F I D E N T I A L SECTION 02 OF 02 BONN 03031

INCREASINGLY THE IDENTITY OF A SUB-GROUP WITHIN THE SPD.
THIS SUB-GROUP IS AWARE THAT IT CAN THREATEN THE LEADER-
SHIP ON OTHER ISSUES, AND THE LEADERSHIP KNOWS THIS TOO.

-- BECAUSE OF THESE DEVELOPMENTS, TENSIONS IN THE SPD
AS A WHOLE HAVE INCREASED, PARTICULARLY BETWEEN THE
CONSERVATIVE AND THE LEFT. IT IS A LESS HAPPY PARTY
THAN A FEW MONTHS AGO, AS AFTER ITS NOVEMBER PARTY

CONGRESS IN HAMBURG.

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PAGE 02 BONN 03031 02 OF 02 171256Z

-- OVERALL, THE LEADERSHIP IS LIKELY TO LOOK INWARD AND SPEND INCREASINGLY MORE EFFORT ON MENDING ITS FENCES INTERNALLY.

-- WHILE TECHNICALLY WINNING ON THIS ISSUE, THE COALITION WAS UNABLE TO PRODUCE A "CHANCELLOR MAJORITY," AN IMPORTANT SYMBOLIC AND PRACTICAL BENCHMARK. THIS IS THE NUMBER OF VOTES (249) NEEDED TO ELECT A CHANCELLOR IN THE BUNDESTAG. IT IS ALSO THE NUMBER OF VOTES REQUIRED IN THE BUNDESTAG TO OVERRIDE A SIMPLE OBJECTION TO A PIECE OF LEGISLATION BY THE UPPER HOUSE (BUNDESRAT), WHERE THE OPPOSITION ENJOYS A MAJORITY.

5. AT THE SAME TIME, THE CONSEQUENCES ARE NOT SO DIRE AS SOME IN THE PRESS AND OPPOSITION WILL CLAIM. THE GOVERNMENT WOULD IN FACT HAVE SURVIVED HAD IT LOST THIS VOTE, AND SOME OF THE IMAGE OF WEAKNESS IS A SELF-INFLICTED PUNISHMENT WHICH THE COALITION APPLIED TO ITSELF IN RECENT WEEKS AS A SCARE TACTIC TO IMPOSE DISCIPLINE WITHIN ITS OWN RANKS.

6. THIS BILL IS NOT YET LAW. IT MUST NOW CLEAR THE HURDLE OF THE BUNDESRAT, WHICH NEXT MEETS ON MARCH 17. IT IS QUITE POSSIBLE THAT THE BUNDESRAT WILL REFER THE BILL TO THE CONFERENCE COMMITTEE (VERMITTLUNGSAUSSCHUSS) WHICH COULD IN TURN RAISE AN OBJECTION WHICH THE BUNDESTAG COULD ONLY OVERTURN BY A VOTE OF 249 OR MORE. SUCH A PROCEDURE WILL BE A SORE POINT FOR THE FDP, WHICH IS IN COALITION WITH THE CDU IN TWO STATES REPRESENTED IN THE BUNDESRAT, AND WITH THE SPD NATIONALLY. THE FDP'S INTERESTS IN ITS NATIONAL COALITION COULD, THUS COME INTO CONFLICT WITH ITS STAKE IN TWO IMPORTANT STATES.

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PAGE 03 BONN 03031 02 OF 02 171256Z

FOR THE RECORD

7. (A) KEY ASPECTS OF THIS BILL INCLUDE (1) INCREASED LATITUDE FOR POLICE SEARCHES OF APARTMENT BUILDINGS AS WELL AS INDIVIDUAL APARTMENTS IN TERRORISM RELATED INSTANCES; (A) PROVISIONS FOR POLICE CHECKPOINTS ON

ROADS, AND FOR RELATED DETENTIONS PENDING CONFIRMATION OF IDENTITY; (3) RESTRICTIONS ON PHYSICAL LAWYER-DEFENDENT CONTACT VIA PARTITITONS; AND (4) EXCLUSION OF LAWYERS FROM TERRORIST CASES WHEN THERE IS SUSPICION THAT THEY ARE CONSPIRING WITH THEIR CLIENTS.

(B) SPD DEPUTIES VOTING AGAINST THIS WERE: COPPIK, HANSEN, MEINKE, AND LATTMAN. PHILIP ROSENTHAL CAST THE WRONG BALLOT. CONRADI AND SCHWENCKE SAID THEY OPPOSED, BUT WOULD VOTE FOR THIS BILL TO "SAVE" THE COALITION.

(C) THE FINAL TALLY WAS 245 VOTES (SPD AND FDP) FOR; 244 (240 CDU/CSU, 4 SPD) AGAINST THE BILL.

(D) THE SCHMIDT GOVERNMENT WOULD NOT HAVE FALLEN EVEN IF IT HAD CHOSEN TO LINK A VOTE OF CONFIDENCE TO THE ANTI-TERRORISM BILL AND THEN LOST THE VOTE. THE FRG CONSTITUTION PROVIDES THAT A GOVERNMENT CAN FALL ONLY WHEN THE BUNDESTAG AGREES ON A SUCCESSOR - I.E., THE CONSTRUCTIVE VOTE OF NO CONFIDENCE. SUCH A STEP WAS NOT IN THE CARDS. HOWEVER, FRG GOVERNMENTS HAVE NOT HISTORICALLY LOST MAJOR TESTS IN THE BUNDESTAG SINCE 1949 DUE TO DEFECTIONS FROM THEIR OWN RANKS.
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